

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

AFFYMETRIX, INC., a Delaware corporation,

Plaintiff/Counter-Defendant,

v.

ILLUMINA, INC., a Delaware corporation,

Defendant/Counter-Plaintiff.

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Civil Action No.: 04-901 JJF

**ILLUMINA, INC.'S MOTION TO EXCLUDE THE EXPERT TESTIMONY OF
MATTHEW LYNDE AS IT RELATES TO LOST PROFITS**

Illumina, Inc ("Illumina") respectfully moves this Court pursuant to Federal Rules of Evidence 104(a) and 702 to preclude the expert testimony of Matthew Lynde as they relate to lost profits. The grounds for this motion are fully set forth in the accompanying memorandum filed contemporaneously herewith.

/s/ Richard K. Herrmann

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Dated: February 13, 2007

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ORDER

IT IS HEREBY ORDERED, this ____ day of _____, 2007 upon consideration of Illumina Inc.'s Motion To Exclude The Expert Testimony Of Matthew Lynde As It Relates To Lost Profits, and Affymetrix's Memorandum in Opposition thereto, it is hereby ORDERED and DECREED that said Motion is GRANTED and that Matthew Lynde is hereby precluded from testifying as to lost profits in the trial of this action.

United States District Judge